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FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

| | | |
|---------------------------|---|---------------------------------|
| UNITED STATES OF AMERICA, |) | No. CR 11-00847 RMW |
| |) | |
| Plaintiff, |) | STIPULATION AND [] |
| |) | ORDER VACATING TRIAL DATE, |
| vs. |) | CONTINUING HEARING DATE AND |
| |) | EXCLUDING TIME UNDER THE SPEEDY |
| HONG THANH THI NINH and |) | TRIAL ACT |
| SI "KEVIN" TRUONG, |) | |
| |) | |
| Defendants. |) | |
| |) | |

The defendant, Hong Thanh Thi Ninh, represented by Assistant Federal Public Defender Diana A. Garrido, the co-defendant, Si "Kevin" Truong, represented by Thomas J. Ferrito, and the government, represented by Assistant United States Attorney Jeffrey B. Schenk, hereby stipulate that, with the Court's approval, the status conference currently set for Monday, December 10, 2012 at 9:00 a.m., shall be continued to Monday, January 14, 2013 at 9:00 a.m. The parties further stipulate that, with the Court's approval, the pretrial conference currently set for February 21, 2013 at 2:00 p.m. and the trial currently set for March 4, 2013 at 1:30 p.m. shall be vacated.

The continuance is requested to provide both defense counsel and the government the opportunity to attend the settlement conference, which has been continued to January 8, 2013,

1 and to review discovery and to negotiate an appropriate resolution. The continuance would
2 provide all parties with the reasonable time necessary for effective preparation. The vacated
3 pretrial and trial dates would accommodate defense counsel for Ms. Ninh, who has another trial
4 set which conflicts with the current trial date in this matter. Accordingly, all parties respectfully
5 request that the time between December 10, 2012 and January 14, 2013 be excluded under the
6 Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv).

7 Dated: December 4, 2012

8 STEVEN G. KALAR
Federal Public Defender

9
10 /s/ _____
DIANA A. GARRIDO
11 Assistant Federal Public Defender
Attorney of Record for Ms. Ninh

12 Dated: December 4, 2012

13
14 /s/ _____
THOMAS J. FERRITO
15 Attorney of Record for Mr. Truong

16 Dated: December 4, 2012

17 MELINDA HAAG
United States Attorney

18
19 /s/ _____
JEFFREY B. SCHENK
20 Assistant United States Attorney

ORDER

Pursuant to agreement and stipulation of the parties, the Court HEREBY ORDERS that the December 3, 2012 status conference date be continued to January 14, 2013 and that the February 21, 2013 pretrial and March 4, 2013 trial dates be vacated. The Court FURTHER ORDERS that the time between December 3, 2012 and January 14, 2013 is excluded under the Speedy Trial Act, 18 U.S.C. §3161. The Court finds, pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv), that the failure to grant the requested continuance would unreasonably deny counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence. Furthermore, the Court finds that the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial. The Court therefore concludes that this exclusion of time should be made under 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv).

IT IS SO ORDERED.

DATED: FEB 7 2013



THE HONORABLE RONALD M. WHYTE
United States District Judge